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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.               | CONFIRMATION NO.       |
|--|-------------|----------------------|-----------------------------------|------------------------|
| 10/617,218   | 07/10/2003  | Frank S. Glaug       | H-28120                           | 2366                   |
| 56679 7590 08/01/2007<br>GOSZ AND PARTNERS LLP<br>ONE STATE STREET<br>BOSTON, MA 02109 |             |                      | EXAMINER<br>ANDERSON, CATHARINE L |                        |
|  |             |                      | ART UNIT<br>3761                  | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>08/01/2007           | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

ED

**Office Action Summary**

Application No.

10/617,218

Applicant(s)

GLAUG ET AL.

Examiner

C. Lynne Anderson

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 20-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Response to Arguments***

Applicant's arguments filed 25 May 2007 have been fully considered but they are not persuasive.

In response to the applicant's argument that Dravland fails to disclose the front and rear waist portions being joined together at the sides of the chassis, it is noted that the sides of the front and rear waist portions of Dravland overlap when the diaper is fastened, as shown in figure 4, and therefore are joined together. The present claims to not require the side edges of the front and rear waist portions to be bonded together, and therefore the diaper of Dravland fulfills the limitations of the claim.

In response to the applicant's argument that Dravland fails to disclose the leg openings being of complementary shape, it is noted that the term 'complementary shape' does not require the shapes to be identical in size and dimensions. The edge portions of the leg openings together form a substantially circular leg opening, as shown in figure 4, and therefore complement each other.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the S-shaped

front portion taught by Imsangjan (see figure 4) provides an improvement over a simple curved front portion such as that shown by Dravland. While Dravland already teaches a type of high-cut leg opening, the teaching of Imsangjan can provide an improvement even beyond the leg opening of Dravland, and therefore it would be obvious to modify Dravland in view of Imsangjan.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dravland (4,906,243) in view of Imsangjan et al. (7,011,653).

Dravland discloses all aspects of the claimed invention with the exception of the front section having an S-shaped arcuate edge portion. Dravland discloses a disposable undergarment having a front waist portion 10c, a belly portion 14c, a rear waist portion 10a, a rear back portion 14a, and a crotch portion 10b, as shown in figure 4. The undergarment has a pair of leg openings, each leg opening having an S-shaped arcuate edge portion in the rear section 14a that forms a convex projection at the lower portion of the leg opening, as shown in figure 1.

Imsangjan disclose an undergarment having leg openings, each leg opening having an S-shaped arcuate edge portion in the front section, as shown in figure 4. The

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S-shaped arcuate edge portion help keep the garment in place during use and improve comfort, as disclosed in column 3, lines 19-48.

It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the front portion of the leg openings of Dravland with an S-shaped arcuate edge portion, as taught by Imsangjan, to help keep the garment in place during use and improve comfort.

With respect to claim 2, Dravland discloses that each of the leg openings is elasticized by elastic threads 20 and 22, as shown in figure 1.

With respect to claim 3, the elastic threads 20 and 22 extend along the convex edge portion, through the intermediate edge portion, and into the front portion, which when modified by Imsangjan is the concave edge portion.

With respect to claims 4 and 5, a plurality of transversely extending elastic threads 18 extend through the waist portion, as shown in figure 1.

With respect to claim 6, the article comprises an absorbent core 14.

With respect to claim 7, the article further comprises an absorbent core 14 and insert sheet 16, and a gasketed compartment for absorption of liquids.

With respect to claim 16, the core 14 comprises absorbent material, as disclosed in column 2, line 1.

With respect to claim 17, the article comprises a fluid acquisition layer 16 disposed over the core 14, as disclosed in column 1, line 68.

Claims 8-13 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dravland (4,906,243) in view of Imsangjan et al. (7,011,653), and further in view of Otsubo et al. (US 2002/0151864).

Dravland, as modified by Imsangjan, discloses all aspects of the claimed invention with the exception of the placement of the elastic threads across the belly portion and the rear back portion of the article, and the crotch portion being a separate member. Otsubo teaches an article having elastic threads 23 and 24 extending across the belly portion and the rear back portion, as shown in figure 3. The crotch portion of the article is a separate member, as shown in figure 3. This configuration provides the article with a more secure and comfortable fit, as disclosed in paragraph [0006]. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the article of Dravland with the elastic threads and separate crotch portion of Otsubo, in order to provide the article with a more secure and comfortable fit.

With respect to claim 18, the core 14 comprises absorbent material, as disclosed in column 2, line 1.

With respect to claim 19, the article comprises a fluid acquisition layer 16 disposed over the core 14, as disclosed in column 1, line 68.

Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dravland (4,906,243) in view of Imsangjan et al. (7,011,653), and further in view of Good et al. (5,843,056).

Dravland, as modified by Imsangjan, discloses all aspects of the claimed invention with the exception of the chassis comprising a nonwoven spunbond polypropylene. Good teaches the use of spunbond polypropylene as a suitable nonwoven material for the topsheet of an absorbent article, as described in column 5, lines 51-64. It would therefore be obvious to one of ordinary skill in the art at the time of invention to construct the article of Dravland with a nonwoven spunbond polypropylene, as taught by Good, to provide a suitable topsheet for the article.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WA  
cla  
July 28, 2007

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

